

ORDINANCE NO. 020523-33

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP TO ADD A NEIGHBORHOOD PLAN COMBINING DISTRICT TO THE BASE ZONING DISTRICTS ON APPROXIMATELY 761.7 ACRES OF LAND GENERALLY KNOWN AS THE BOULDIN CREEK NEIGHBORHOOD PLAN AREA ("BOULDIN CREEK") AND TO CHANGE THE BASE ZONING DISTRICTS ON 101 TRACTS OF LAND IN BOULDIN CREEK.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to add a neighborhood plan (NP) combining district to each base zoning district within the property and to change the base zoning districts on 101 tracts of land within the property described in File C14-02-0031, as follows:

Approximately 761.7 acres of land, in the City of Austin, Travis County, Texas, more particularly described and identified in the attached Exhibit "A", (the "Property"),

generally known as the Bouldin Creek Neighborhood Plan (NP) combining district, locally known as the property bounded by Town Lake on the north, South Congress Avenue on the east, Oltorf Street on the south and the Union Pacific Railroad tracks on the west, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

PART 2. The base zoning districts for the 101 tracts of land are changed from family residence (SF-3) district, family residence-historic (SF-3-H) combining district, multifamily residence low density (MF-2) district, multifamily residence medium density (MF-3) district, multifamily residence medium density-historic (MF-3-H) combining district, multifamily residence moderate high density (MF-4) district, neighborhood office (NO) district, neighborhood office-conditional overlay (NO-CO) combining district, limited office (LO) district, general office-conditional overlay (GO-CO) combining district, neighborhood commercial (LR) district, neighborhood commercial-historic (LR-H) combining district, neighborhood commercial-conditional overlay (LR-CO) combining district, community commercial (GR) district, general commercial services (CS) district, general commercial services-historic (CS-H) combining district, general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district, commercial liquor sales (CS-1) district, and commercial-liquor sales-conditional overlay (CS-1-CC

combining district to family residence-neighborhood plan (SF-3-NP) combining district, single family residence small lot-neighborhood plan (SF-4A-NP) combining district, townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district, multifamily residence moderate high density-neighborhood plan (MF-4-NP) combining district, neighborhood office-mixed use-neighborhood plan (NO-MU-NP) combining district, limited office-mixed use-neighborhood plan (LO-MU-NP) combining district, limited office-conditional overlay-neighborhood plan (LO-CO-NP) combining district, limited office-mixed use-conditional overlay-neighborhood plan (LO-MU-CO-NP) combining district, neighborhood commercial-conditional overlay-neighborhood plan (LR-CO-NP) combining district, neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district, community commercial-mixed used-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district, community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district, community commercial-mixed used-historic-conditional overlay-neighborhood plan (GR-MU-H-CO-NP) combining district, general commercial services-neighborhood plan (CS-NP) combining district, general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district, general commercial services-historic-conditional overlay-neighborhood plan (CS-H-CO-NP) combining district, commercial-liquor sales-neighborhood plan (CS-1-NP) combining district, commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district, commercial-liquor sales-mixed use-conditional overlay-neighborhood plan (CS-1-MU-CO-NP) combining district, and public-neighborhood plan (P-NP) combining district, as more particularly described and identified in the chart below.

Tract #	PROPERTY ADDRESS	FROM	TO
1	502 DAWSON RD	CS-1	CS-1-NP
2a	1005 & 1023 BARTON SPRINGS RD	CS-1	CS-1-NP
2b	901, 903, 907, & 921 BARTON SPRINGS RD	CS, CS-1	CS-NP
3	0 (1.0 AC OF LOT 6 BLK B BOULDIN J E ESTATE), 801 & 811 BARTON SPRINGS RD	CS, CS-1, & LO	CS-1-NP
4	601 & 605 BARTON SPRINGS RD	CS-1	CS-1-NP
5	600 S 1ST ST (2.33 AC OF LOT 1 BLK B BOULDIN J E ESTATE)	MF-4	CS-MU-CO-NP
6	721 BARTON SPRINGS RD	CS & CS-1	P-NP
7	505 & 507 BARTON SPRINGS RD	CS-1	P-NP
8	700 S. 1ST ST	LO	LO-MU-NP
9	0 (LOTS 4-6 BLK B, CAPITAL HEIGHTS PLUS 1/2 ADJ VAC ALLEY) & 1402 S 5TH STREET	CS	SF-6-NP
11	1010 & 1012 W MARY ST	LO	LO-MU-NP
12	1800 S 5 TH ST	CS	LR-MU-CO-NP
13	1001 W MARY ST	CS & SF-3	GR-MU-H-CO-NP
14	1807 S 5 TH ST	CS	LR-MU-CO-NP

Tract #	PROPERTY ADDRESS	FROM	TO
15	912 W MARY ST	CS	CS-MU-CO-NP
16	915 W MARY ST	CS	CS-MU-CO-NP
17	913 W MARY ST	GR	LR-MU-CO-NP
18	909 W MARY ST	GR	LR-MU-CO-NP
19	908 W MARY ST	SF-3 & CS	SF-3-NP
20	2200, 2206, 2208, 2300 & 2302 S 5TH ST	MF-3	MF-4-NP
21	2207 S 5 TH ST	MF-3 & LR	MF-4-NP
22	811 W LIVE OAK ST	CS-H, LR-H, SF-3-H & MF-3-H	GR-MU-H-CO-NP
23	2301 & 2311 S 5TH ST, 910 W OLTORF ST	LR & MF-3	GR-MU-CO-NP
24	900 & 904 S 2 ND ST (Lots 9 & 10 Abe Williams Subd.)	SF-3	GR-MU-CO-NP
25	900, 902, 904 & 906 S 1ST ST, 901, 903, 905 & 907 S 2ND ST	SF-3	GR-MU-CO-NP
26	908, 910, 912, 1000, 1002, 1004 & 1006 S 1ST ST	SF-3	GR-MU-CO-NP
27	1100, 1102, 1104, 1106, 1108, 1110, 1112, 1114 & 1200 S 1ST ST, 605 & 607 COPBLAND ST	SF-3 & LO	GR-MU-CO-NP
28	0 DAWSON ROAD (12.225 ACRES OF LOT 8 BLK B, BOULDIN J E ESTATE), 1104 & 1200 S 6TH ST, 1101, 1105 & 1107 S 7TH ST	MF-2 & SF-3	P-NP
29	1401 S 7 TH ST	SF-3	P-NP
30	1200 S 6 TH ST	SF-3	P-NP
31	0 W GIBSON ST (LOTS 14-17 BLK 2, SOUTH HEIGHTS)	CS & GO-CO	CS-MU-CO-NP
32	607 W GIBSON ST	NO-CO	NO-MU-NP
33	1302, 1308 & 1312 S 1ST ST, 605 W GIBSON ST	CS & SF-3	CS-MU-CO-NP
34	1207, 1209, 1301, 1311, 1413, 1415 & 1417 S 1 ST ST	CS	CS-MU-CO-NP
35	500 W ELIZABETH ST	CS-1	CS-1-MU-CO-NP
36	1400 S 1 ST ST	CS	CS-MU-CO-NP
37	1500, 1502 & 1506 S 1ST ST	CS	CS-MU-CO-NP
38	1501 & 1503 S 1ST ST	CS	CS-MU-CO-NP
39	1602, 1628, 1632, 1636, 1700, 1708 & 1720 S 1 ST ST, 602 W ANNIE ST	CS, CS-MU-CO & NO-CO	CS-MU-CO-NP
40	1601, 1603, 1605, 1609, 1611, 1613, 1615, 1617, 1619, 1701, 1703, 1711, 1713 & 1715 S 1ST ST, 514 & 516 W ANNIE ST, 409 W MONROE ST	CS	CS-MU-CO-NP
41	1800 S 1 ST ST & 603 W ANNIE ST	CS	CS-MU-CO-NP
42	1816 S 1 ST ST	CS	CS-MU-CO-NP
43	1801, 1803, 1805, 1807, 1809 & 1811 S 1ST ST	CS	CS-MU-CO-NP
44	607 W MARY ST	LO	LO-MU-CO-NP
45	1902 S 1 ST ST	CS	CS-MU-CO-NP
46	604 W JOHANNA ST	LR	LR-MU-CO-NP
47	1906 & 1924 S 1ST ST	CS	CS-MU-CO-NP
48	1903, 1905 & 1919 S 1ST ST	CS	CS-MU-CO-NP
49	2002, 2004, 2006 & 2008 S 1ST ST	CS	CS-MU-CO-NP
50	2104 S 1ST ST	CS & SF-3	CS-MU-CO-NP
51	2003, 2007, 2009, 2103 & 2105 S 1ST ST, 508 & 510 W LIVE OAK ST	CS	CS-MU-CO-NP
52	603 W LIVE OAK ST	LR & NO-CO	LR-MU-CO-NP
53	601 W LIVE OAK ST	CS	CS-MU-CO-NP
54	2209, 2213, 2215, 2217, 2301 & 2313 S 1ST ST, 501, 503, 507 & 511 W LIVE OAK ST	CS & SF-3	CS-MU-CO-NP
55	2210 S 1 ST ST	CS	CS-MU-CO-NP

Tract #	PROPERTY ADDRESS	FROM	TO
56	2214 S 1 ST ST & 600 FLETCHER ST	CS	CS-MU-CO-NP
57	2300, 2304, 2306, 2308, 2310 & 2312 S 1ST ST	CS	CS-MU-CO-NP
58	703, 704, 705, 706 & 708 JAMES ST, 0 (B 31FT OF LOT 11 BLK 2, SOUTH HEIGHTS) & 608 W GIBSON ST, 1202 S 1ST ST	SF-3 & LO	P-NP
59	604, 606 & 608 W OLTORF ST	NO & SF-3	LO-CO-NP
60	2316 S 1ST ST & 602 W OLTORF ST	CS	CS-CO-NP
61	516 W OLTORF ST	CS, GR	CS-CO-NP
62	510 W OLTORF ST	GR	GR-CO-NP
63	500, 502 & 504 W OLTORF ST	LO & LR-CO	LR-CO-NP
64	306, 310 & 312 W OLTORF ST	NO	LO-CO-NP
65	2314, 2322 & 2354 WILSON ST	MF-3	SF-3-NP
66	115A, 115B, 115C & 115D NELLIE ST	SF-3	SF-4A-NP
67	1200 & 1220 S CONGRESS AVE	CS	CS-CO-NP
68	108 W GIBSON ST (LOTS 28-32 BLK 13 ECK NORA RESUB PLUS VAC ALLEY)	CS, SF-3	MF-4-NP
69	1316 S CONGRESS AVE	CS-1-CO	CS-1-CO-NP
70	1300 & 1306 S CONGRESS AVE, 105 JAMES ST	CS-1	CS-1-CO-NP
71	1316 S CONGRESS AVE & 108 W GIBSON ST (LOT 19 & 3.82 FT OF LOT 18 NEWNING RESUB OF BLK 13 & 2A)	CS	CS-CO-NP
72	1403 & 1407 EVA ST, 110 W ELIZABETH ST	CS	CS-MU-CO-NP
73	1400 & 1410 S CONGRESS AVE	CS	CS-CO-NP
74	1412 S CONGRESS AVE	CS-H	CS-H-CO-NP
75	1500, 1504, 1510, 1512, 1516 & 1522 S CONGRESS AVE	CS	CS-CO-NP
76	1600, 1602, 1604 & 1608 S CONGRESS AVE	CS	CS-CO-NP
77	1606 S CONGRESS AVE	CS & CS-1	CS-1-CO-NP
78	1612 S CONGRESS AVE	CS	CS-CO-NP
79	0 (LOT 4 AND 5 FT OF LOT 3 BLK 27, SWISHER ADDN), 1700, 1704, 1710, 1712 & 1722 S CONGRESS AVE	CS	CS-CO-NP
80	1800, 1802, 1806 & 1822 S CONGRESS AVE	CS	CS-CO-NP
81	1900, 1902, 1904, 1906 & 1920 S CONGRESS AVE	CS	CS-CO-NP
82	2002 & 2004 S CONGRESS AVE	CS	CS-CO-NP
83	2008 S CONGRESS AVE	CS-1	CS-1-CO-NP
84	2020 S CONGRESS AVE	CS	CS-MU-CO-NP
85	0 (LOT 2 BLK A, RICHARDSON PL), 2110, 2114, 2116, 2118 & 2130 S CONGRESS AV	CS	CS-CO-NP
86	2206 & 2210 S CONGRESS AVE	CS & LR	CS-MU-CO-NP
87	2300, 2304 & 2326 S CONGRESS AVE	CS	CS-MU-CO-NP
88	2336 S CONGRESS AVE	CS-H	CS-MU-H-CO-NP
89a	2216 & 2218 COLLEGE AVE, 2212 S CONGRESS AVE	LR	GR-MU-CO-NP
89b	2222 COLLEGE AVE	GR	GR-MU-CO-NP
90	312 W MARY ST	MF-2	SF-3-NP
91	2004 WILSON ST	MF-4	SF-3-NP
92	1908 & 1910 EVA ST	MF-3	SF-3-NP
93	1911 EVA ST	MF-3	SF-3-NP
94	0 BRODIE ST (GUBRERO PARK)	SF-3	P-NP
95	700, 702, 704 & 706 W OLTORF ST	SF-3	SF-6-NP
96	800 & 804 W OLTORF ST	SF-3	SF-6-NP

Tract #	PROPERTY ADDRESS	FROM	TO
97	806, 808, 810 & 812 W OLTORF ST	SF-3	SF-6-NP
98	2309 & 2311 S 4TH ST	SF-3	SF-6-NP
99	2308, 2310 & 2312 S 4TH ST, 900 & 902 W OLTORF ST	SF-3	SF-6-NP
100	1000, 1002, 1004, 1006, 1100, 1102 & 1104 W OLTORF ST	SF-3	SF-6-NP
101	1108 W OLTORF ST	SF-3	SF-6-NP
102	1112, 1114, 1200, 1202, 1204, 1206, 1208, 1210, 1212 & 1214 W OLTORF ST	SF-3	SF-6-NP

PART 3. Tracts 1 through 5, 11 through 18, 22 and 23, 25 through 27, 31, 33 through 57, 59 through 64, 67, and 69 through 89 may be developed as a neighborhood mixed use building special use as set forth in Sections 25-2-1502 through 25-2-1504 of the Code.

PART 4. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. The maximum height of a building or structure or portion of a building or structure is 45 feet measured from ground level on Tracts 22, 23, and 25.
2. The maximum height of a building or structure or portion of a building or structure is 35 feet measured from ground level on Tracts 24, 26 and 27.
3. The maximum impervious coverage is 75 percent on Tracts 22 and 23.
4. The maximum impervious coverage on Tract 24 is 45 percent.
5. The maximum building coverage on Tract 24 is 40 percent.
6. The maximum gross floor area is 15,200 square feet for a hotel-motel use on Tract 24.
7. A 50-foot wide building setback from the center line of East Bouldin Creek is required on Tract 5.
8. A portion of a building or structure that exceeds 35 feet in height must fit within an envelope delineated by a 60-degree angle measured from the top of the structure to a property line that adjoins a public street on Tracts 31 and 33 through 57.
9. Parking is prohibited in a required front yard on Tracts 25 through 27, 67, and 69 through 89.

10. The following use is a conditional use on Tracts 5, 25 through 27, 31, 33 through 43, 45 through 57, 67, and 69 through 89:

A general retail sales (general) use that exceeds 20,000 square feet in gross floor area

11. The following use is a conditional use on Tracts 12, 14 through 18 and 59 through 64:

Drive-in services as an accessory use to commercial uses.

12. The following use is a conditional use on Tracts 11, 14 through 18, and 60 through 63:

Service station

13. The following uses are conditional uses on Tracts 15, 16, 60 and 61:

Adult oriented businesses

Building maintenance services

Equipment repair services

Limited warehousing and distribution

Maintenance and service facilities

14. The following use is a conditional use on Tracts 22 and 23:

Medical offices (exceeding 5,000 square feet of gross floor area)

15. The following use is a prohibited use on Tracts 5, 13, 22 through 27 and 89a:

Drive-in services as an accessory use to commercial uses.

16. The following use is a prohibited use on Tracts 5, 13, 15, 16, 22, 23, 25, 26, 27, 60, 61, 62, and 89a:

Pawn shop services

17. The following uses are prohibited uses on Tracts 5, 13, 15, 16, 22, 23, 25, 26, 27 and 89a:

Automotive rentals

Automotive sales

18. The following uses are prohibited uses on Tracts 5, 13, 22, 23, 25, 26, 27 and 89a:

Automotive repair services	Automotive washing (of any type)
Commercial off-street parking	Communications services
Drop-off recycling collection facility	Exterminating services
Funeral services	Service stations

19. The following use is a prohibited use on Tracts 5, 15, and 16:

Vehicle storage

20. The following uses are prohibited uses on Tracts 22 and 23:

Hospital services (general)	General retail sales (general)
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21. The following uses are prohibited uses on Tract 5:

Agricultural sales and services	Building maintenance services
Campground	Construction sales and services
Convenience storage	Electronic prototype assemble
Equipment repair services	Equipment sales
Kennels	Laundry services
Limited warehousing and distribution	Maintenance and service facilities
Monument retail sales	

22. The following uses are prohibited on Tract 24:

Administrative and business office	Art and craft studio (limited)
Automotive rentals	Automotive repair services
Automotive sales	Automotive washing (of any type)
Business or trade school	Business support services
Consumer convenience services	Drop-off recycling facility
Exterminating services	Financial services
Food sales	Funeral services
General retail sales (general)	General retail sales (convenience)
Indoor entertainment	Indoor sports and recreation
Medical offices (any size)	Off-site accessory parking
Personal services	Pet services

Plant nursery
Research services
Restaurant (general)
Service station
Theater
Congregate living
Guidance services
Hospital services (limited)
Bed and breakfast (Group II)
Group residential
Townhouse residential
Communication services
Outdoor entertainment
Pawn shop services
Urban farm

Professional office
Restaurant (drive-in, fast food)
Restaurant (limited)
Software development
Custom manufacturing
Counseling services
Hospital services (general)
Residential treatment
Condominium residential
Multifamily residential
Commercial off-street parking
Consumer repair services
Outdoor sports and recreation
Personal improvement services

23. The following uses are conditional uses on Tract 24:

College and university facilities	Community recreation (private)
Community recreation (public)	Cultural services
Day care services (commercial)	Day care services (general)
Local utility services	Private primary educational facilities
Private secondary educational facilities	Safety services

24. For a hotel-motel use on Tract 24:

- a. Except as shown in subsection b the setback for structures, parking areas, and driveways on Lot 9, Abe Williams Subdivision is 200 feet from the west property line. (900 West 2nd Street).
- b. On Lot 9 the setback is 150 feet from the west property line for a detention pond or a drainage facility.
- c. The setback for structures, parking areas, driveways, detention ponds, or drainage facilities on Lot 10, Abe Williams Subdivision is 200 feet from the west property line. (904 West 2nd Street)

PART 5. Except as specifically restricted under this ordinance, the Property may developed and used in accordance with the regulations established for the respective base district and other applicable requirements of the City Code.

PART 6. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 7. This ordinance takes effect on June 3, 2002.

PASSED AND APPROVED

May 23, 2002

§
§
§

Gustavo L. Garcia

Gustavo L. Garcia
Mayor

APPROVED:

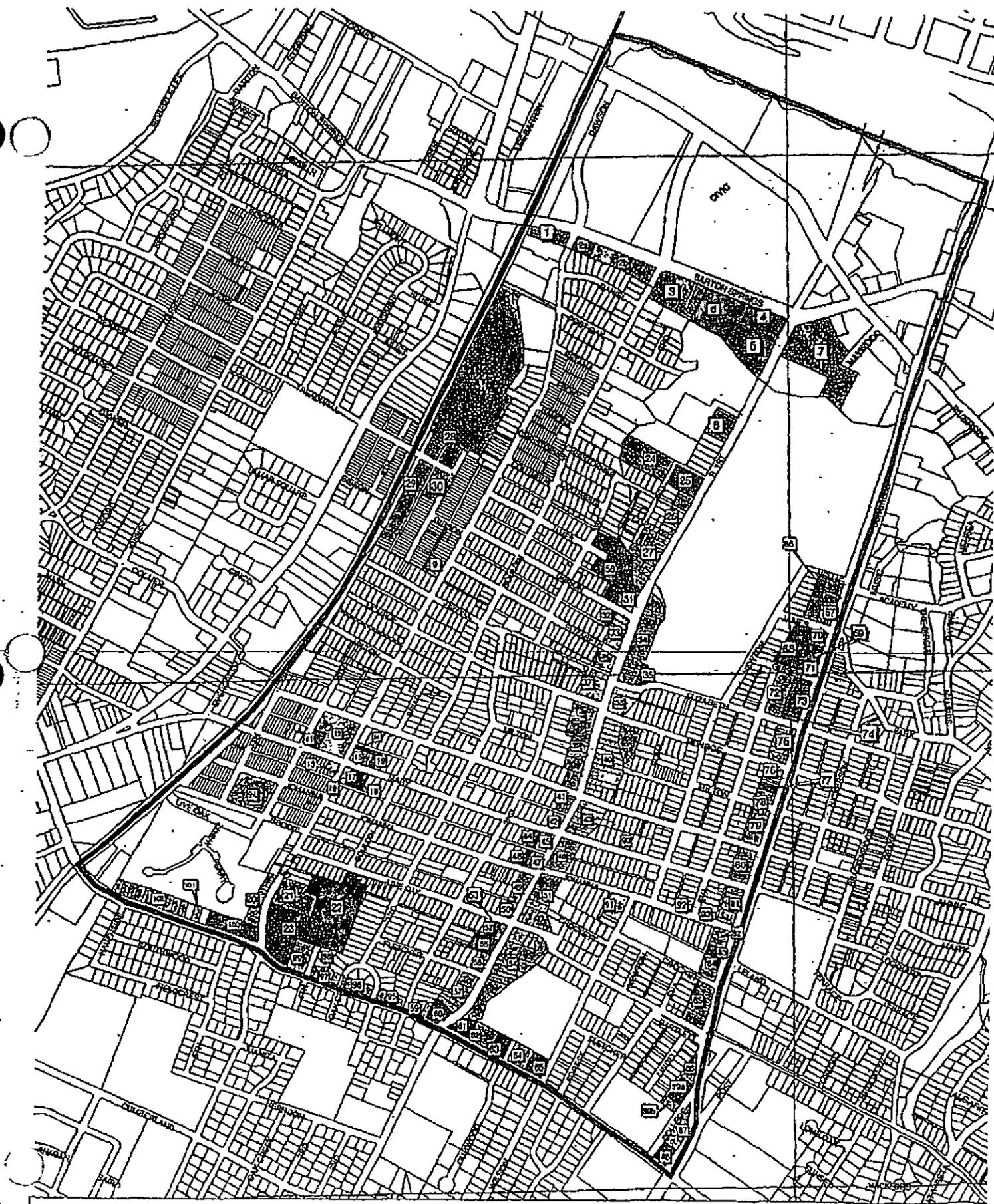
Sedora Jefferson

Sedora Jefferson
City Attorney

ATTEST:

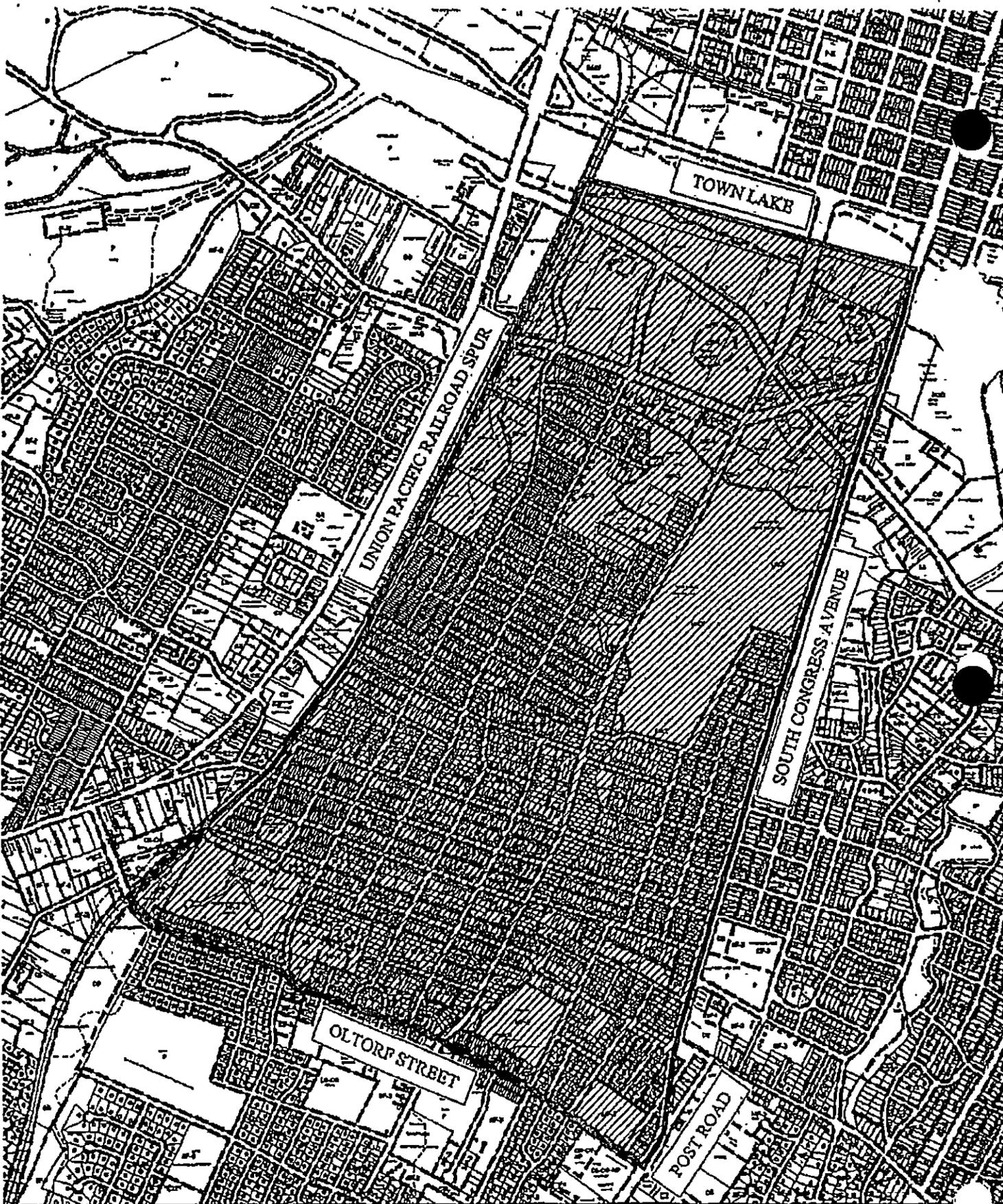
Shirley A. Brown

Shirley A. Brown
City Clerk



Bouldin Creek Neighborhood Planning Area
Case # C14-02-0031 EXHIBIT A





SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: W. WALSH

CASE #: C14-02-0031
 ADDRESS: BOULDIN CREEK
 NEIGHBORHOOD PLANNING AREA
 SUBJECT AREA (acres): N/A

ZONING EXHIBIT B

DATE: 02-03
 INTLS: SM

CITY OF
 REFERENCE
 NUMBER
 J20-22.H2K
 2

Item for Action

Make a recommendation to the Planning Commission and City Council on the Hyatt Regency Redevelopment Project

Parks and Recreation Department Board
Tuesday, October 24, 2006
Regular Meeting

Board Member Francell moved to approve the recommendation to the Planning Commission and the City Council, seconded by Board Member Vane. Board Chair requested a roll call vote and the result was a 4-4 deadlock, therefore the motion did not carry. The vote was as follows:

Board Member Chimenti- No
Board Member Ortiz – No
Board Member Bostick- No
Board Member Boyt- Yes

Board Member Small – Yes
Board Member Francell- Yes
Board Member Vane- Yes
Board Member Guerrero- No

Tino Garcia, Parks Board Liaison
Parks and Recreation Department

November 7, 2006

ATTACHMENT D



GRAVES DOUGHERTY HEARON & MOODY
A PROFESSIONAL CORPORATION

Michael J. Whellan
512.480.5734
512.480.5834 (fax)
mwhellan@gdhm.com

MAILING ADDRESS:
P.O. Box 98
Austin, TX 78767

July 14, 2006

RECEIVED

JUL 14 2006

City of Austin
Director, Neighborhood Planning & Zoning Department
505 Barton Springs Road
Austin, Texas 78703
Attention: Greg Guernsey

Neighborhood Planning & Zoning

Re: 208 Barton Springs Road – Hyatt Redevelopment (“Property”)

Dear Greg Guernsey:

Pursuant to our discussions concerning the above-referenced matter, Fairfield Residential has agreed to the following additional items, which will be incorporated into the final zoning ordinance:

- Plant a vegetative screen along the Southernmost property line of the Hotel Tract facing Town Lake adjacent to the surface parking lot on the East side of the Hotel Tract;
- Prior to obtaining a certificate of occupancy for any pedestrian oriented uses or residential dwelling units for the West Parcel, an access easement will be provided to the City that allows (i) public access to the internal drive on the West Parcel and (ii) public access from the internal drive to the Town Lake hike and bike trail;
- Prohibit pole signage, with the exception of directional signage for vehicular and pedestrian traffic, which will be limited to a height of four feet (this provision will not prohibit the use of traffic control signage in conformance with City regulations, i.e. stop signs); and
- Public bicycle parking in the primary setback area, subject to the City’s approval of location.

If you have any questions, please feel free to call.

Very truly yours,

Michael Whellan

MJW:vlh

Phasing Plan

1. The PUD is divided into three (3) separate parcels identified on the Land Use Plan as the "Hotel Parcel," the "West Parcel" and the "South Parcel. The PUD shall be developed in phases to accommodate the redevelopment of the existing parking improvements and to meet market demand. The existing hotel on the Hotel Parcel shall be entitled to continue to be used and operated during the construction of any and all of the phases of the redevelopment of the PUD. Any portion of any Parcel may be included in a phase, and more than one Parcel may be involved in a phase.
2. Impervious cover, building coverage, floor to area ratio, parking, landscaping and required open space are as reflected on the Land Use Plan and are calculated on the cumulative gross site area of the PUD property, and the portions of the property included in any phase, and the site plan for each phase, shall not be required to satisfy those requirements on a "stand alone" basis, but shall be approved if consistent with the Land Use Plan for such phase.
3. During construction of any phase, no less than 250 parking spaces, onsite or offsite, will be provided for use of the Hotel Parcel. It is currently contemplated that the West Parcel shall be developed in at least two phases. The first phase would be the construction of the lower portion of a building, primarily containing enclosed parking and pedestrian-oriented uses, and the second phase of which would be the completion of the remainder of the building, primarily containing residential multi-family or condominium units. After completion of the first phase of the West Parcel, it is currently contemplated that the South Parcel would be developed to provide, among other things, permanent enclosed parking for the Hotel Parcel. The foregoing sequence is what is currently contemplated, however, the number and location of the phases and the sequence of the development shall be as the Owner shall determine. As a result of the loss of the existing surface parking satisfying the required parking for the use of the Hotel Parcel during the construction of the improvements on the West Parcel and the South Parcel, it is intended that the continued use of the Hotel Parcel shall be permitted during the construction of a phase on the West Parcel or the South Parcel, so long that upon completion of such phase the required parking for the use of the hotel is provided on a cumulative basis on all of the PUD property.

4. During construction of any phase of the PUD, construction staging areas, include laydown area for building materials, temporary construction office, storage of building construction equipment and vehicles, and daytime parking of personal vehicles, shall be permitted in the Waterfront Overlay District primary and secondary setback areas within the West Parcel; provided, landscaping shall be installed on the Town Lake side of the construction staging areas to screen the construction staging areas from Town Lake.
5. During the construction of any phase of the PUD, construction and temporary security fencing around the limits of construction and the construction staging areas shall be permitted in the Waterfront Overlay District primary and secondary setback areas within the West Parcel.
6. A temporary access road, including a temporary curb cut, to South First Street as reflected on the Land Use Plan shall be permitted in the Waterfront Overlay District primary and secondary setback areas within the West Parcel until the permanent internal circulation drive is installed in the West Parcel upon completion of the final phase of the building and related improvements on the West Parcel.
7. To accommodate the construction of subsequent phases of the buildings to be constructed on the West Parcel and the South Parcel, until the earlier of (a) the completion of the final phase of such building, or (b) five (5) years after the issuance of a Certificate of Occupancy for the first phase of such building:
 - (i) Required permanent landscaping and related improvements shall not be required to be installed.
 - (ii) Occupancy and use of the first floor of the first phase of a building for pedestrian oriented uses shall not be required.
 - (iii) The façade of the lower floors of the first phase of a building including enclosed parking shall be permitted to remain with concrete finish.
8. During construction of a subsequent phase of a building, a construction office and a sales and leasing office may be located in the retail or garage portions of the first phase of such building.

Permitted Uses Table

1. Hotel Parcel

A. All uses specified as permitted uses or as pedestrian-oriented uses in the Commercial – Liquor Sales (CS-1) district, the Waterfront Overlay (WO) district, and South Shore Central Waterfront Overlay (WO) subdistrict as provided in Section 25-2-491, Section 25-2-691 and Section 25-2-692(F) of the Austin City Code in effect on the date of this ordinance (the "City Code"), and any other uses that are permitted in said districts or subdistrict by subsequent amendments applicable to said districts or subdistrict.

B. All uses specified as conditional uses in the Commercial – Liquor Sales (CS-1) district, which are not specified as permitted uses in A. above, are conditional uses in the Hotel Parcel.

C. A private or public health club and a residential sales and leasing office shall be deemed a pedestrian-oriented use for purposes of Section 25-2-691(C) and Section 25-2-692(F) of the City Code.

2. West Parcel

A. All uses specified as permitted uses or as pedestrian-oriented uses in the Lake Commercial (L) district, the Waterfront Overlay (WO) district, and South Shore Central Waterfront Overlay (WO) subdistrict, as provided in Section 25-2-491, Section 25-2-691 and Section 25-2-692(F) of the City Code, and any other uses that are permitted in said districts or subdistrict by subsequent amendments applicable to said districts or subdistrict are permitted uses in the West Parcel.

B. All uses specified as conditional uses in the Lake Commercial (L) district are permitted uses in the West Parcel, except the following uses (as defined in the City Code) which shall be conditional uses:

- (1) Automotive Repair Services
- (2) Automotive Sales
- (3) Automotive Washing
- (4) Service Station

C. A private or public health club and a residential sales and leasing office shall be deemed a pedestrian-oriented use for purposes of Section 25-2-691(C) and Section 25-2-692(F) of the City Code.

3. South Parcel

A. All uses specified as permitted uses or as pedestrian-oriented uses in the Lake Commercial (L) district, the Waterfront Overlay (WO) district, and South Shore Central Waterfront Overlay (WO) subdistrict, as provided in Section 25-2-491, Section 25-2-691 and Section 25-2-692(F) of the City Code, and any other uses that are permitted in said districts or subdistrict by subsequent amendments applicable to said districts or subdistrict are permitted uses in the South Parcel.

B. All uses specified as conditional uses in the Lake Commercial (L) district are permitted uses in the South Parcel, except the following uses (as defined in the City Code) which shall be conditional uses:

- (1) Automotive Repair Services
- (2) Automotive Sales
- (3) Automotive Washing
- (4) Service Station

C. A private or public health club and a residential sales and leasing office shall be deemed a pedestrian-oriented use for purposes of Section 25-2-691(C) and Section 25-2-692(F) of the City Code.

Site Development Regulations Table

1. Hotel Parcel

A. The existing building, structures, parking, loading areas and other improvements located in the Hotel Parcel are legal, complying building, structures and improvements, and notwithstanding the provisions of the City Code (including, without limitation, Section 25-2-492, Section 25-2-721, Section 25-742 and Section 25-8-261), may be maintained, repaired, restored, modified, altered, renovated, improved, upgraded and replaced so long as:

- (1) any alterations, modifications, replacements, additions or other improvements with respect to the primary building are within a building envelope that (a) does not exceed the existing footprint of the existing hotel building more than twenty-five (25) feet to the west, south or east, but may not extend towards Town Lake closer than the existing building; (b) does not exceed the height of the area of the highest portion of the existing hotel building; and (c) for all other portions of the building does not exceed the greater of (i) thirty (30) feet in excess of the height of such portions of the existing hotel building, or (ii) sixty (60) feet.
- (2) any alterations, modifications, replacements, additions or other improvements with respect to any accessory building, pool, deck, patio, parking, loading or other improvements do not (a) increase the existing amount of impervious cover in the Hotel Parcel; and (b) extend closer to Town Lake than the existing deck, patio and other improvements.

B. Improvements, repairs, additions and replacements along and adjacent to the Hike & Bike & Drainage Easement along Town Lake, including without limitation, landscaping and associated irrigation systems, slope stabilization, retaining walls and similar improvements, and landscaping and associated irrigation systems and screening of the existing parking and loading area, shall be permitted notwithstanding the provisions of the City Code, including, without limitation, Section 25-2-492, Section 25-2-721, Section 25-742 and Section 25-8-261.

C. Parallel parking and sidewalks along any portion of the internal circulation drive located in the Hotel Parcel is permitted.

2. West Parcel

A. The site development regulations for the Lake Commercial (L) district specified in Section 25-2-492 of the City Code shall apply to the West Parcel, except as depicted in the PUD Land Use Plan.

B. The provisions of Section 25-2-721 and Section 25-2-742 of the City Code are applicable in the West Parcel; provided the following shall also apply:

- (1) In the primary setback area:
 - (a) The existing improvements and impervious cover, including specifically, but without limitation, the boat docks and facilities, as depicted in the PUD Land Use Plan are permitted, and may be upgraded, improved and relocated.
 - (b) The internal circulation drive and impervious cover as depicted in the PUD Land Use Plan are permitted, and may be upgraded, improved and relocated.
 - (c) Sidewalks along the internal circulation drive as depicted in the PUD Land Use Plan are permitted.
 - (d) Water features (such as fountains) and optional water quality facilities are permitted.
 - (e) Temporary construction staging areas and construction administrative offices are permitted.
- (2) In the secondary setback area:
 - (a) The internal circulation drive and impervious cover as depicted in the PUD Land Use Plan are permitted, and may be upgraded, improved and relocated
 - (b) Sidewalks along the internal circulation drive as depicted in the PUD Land Use Plan are permitted.
 - (c) Water features (such as fountains) and optional water quality facilities are permitted.
 - (d) Plaza and patio seating areas are permitted.
 - (e) Columnades and covered pedestrian walkways immediately adjacent to buildings are permitted.
 - (f) Temporary construction staging areas and construction administrative offices are permitted.
- (3) Parallel parking along the internal circulation drive is permitted.
- (4) Entries to parking garages as depicted in the PUD Land Use Plan are permitted.

C. The provisions of Section 25-8-261 of the City Code are applicable in the West Parcel, except as follows:

- (1) Improvements, repairs, additions and replacements along and adjacent to the Hike & Bike & Drainage Easement along Town Lake, including without limitation, landscaping and associated irrigation systems, slope stabilization, retaining walls and similar improvements, and landscaping and associated irrigation systems and screening of the existing parking and loading area, shall be permitted.
- (2) Water features (such as fountains) and optional water quality facilities shall be permitted.
- (3) Boat docks and facilities as depicted in the PUD Land Use Plan are permitted.

3. South Parcel

A. The site development regulations for the Lake Commercial (L) district specified in Section 25-2-492 of the City Code are applicable in the South Parcel, except as depicted in the PUD Land Use Plan.

B. The South Parcel is not within any primary or secondary setback of the South Central Subdistrict of the Waterfront Overlay District.

4. General Regulations Applicable to all Parcels

A. The secondary setback area shall be thirty-five (35) feet landward from the primary setback line parallel to the Town Lake shoreline.

B. A payment instead of structural controls pursuant to Section 25-8-214 of the City Code shall be permitted and is approved for each Tract. The amount of such payment for each Tract shall be calculated and paid at the time the first site development permit ("SDP") for each Tract is released.

C. The following transportation -related standards shall apply:

- (1) The internal circulation drive as depicted in the PUD Land Use Plan shall be permitted. Access to South First Street in the locations as depicted in the PUD Land Use Plan is permitted and shall be included in the applicable SDP and shall not require a separate driveway permit.
- (2) A minimum of one (1) loading area and a minimum of one (1) loading space shall be provided within and/or adjacent to the primary building constructed on the West Parcel. A minimum of one (1) loading area and a

minimum of one (1) loading space shall be provided within and/or adjacent to the primary building constructed on the South Parcel.

- (3) The minimum number of required off-street parking spaces shall be eighty percent (80%) of the number otherwise required in the Appendix A Tables of Off-Street Parking and Loading Requirements to Chapter 25-8 of the City Code. There shall be no maximum number of off-street parking spaces that may be provided. Surface, structured, and underground parking facilities are permitted. During construction activities within the PUD, the minimum number of off-street parking spaces shall not be required and off-site parking shall be permitted at the option of the owner.

D. The Improved Right-of-Way of Barton Springs Drive immediately adjacent to the Property shall be developed to comply with the Great Streets Program, and the area immediately along and adjacent to the east side of the internal circulation drive shall be developed in a manner consistently with the Great Streets Program, provided, the existing trees in the median and along the existing internal circulation drive shall be continued and maintained as they currently exist. As per the Great Streets Program, the sidewalks shall not be included in any impervious coverage calculation.

E. A donation in the amount of four hundred dollars (\$400) per dwelling unit on each tract shall be calculated and paid at the time the first SDP for each Tract is released. The donation will be split evenly between the City of Austin and the Town Lake Trail Foundation. At the option of the applicant for each SDP and subject to approval by the City's Parks Board, the applicant may construct improvements within the Hike & Bike & Drainage Easement in the West Tract or in any other portion of the Hike & Bike Trail along Town Lake in connection with any SDP for any Tract, and receive a credit against the parkland donation for the actual construction costs of such approved improvements.

F. An integrated pest management (IPM) plan written in accordance with the Pollution Prevention Measures described in the Environmental Criteria Manual Section 1.6.9.2.D shall be implemented.

G. All signage shall conform to the standards set forth in Chapter 25-10 of the City Code except as follows:

- (1) Two (2) freestanding monument-type signs not more than six (6) feet in height shall be permitted along Barton Springs Road and one (1) freestanding monument-type sign not more than six (6) feet in height shall be permitted along South First Street.
- (2) Signs with internal lighting of individual letters on the external walls of structures is permitted.

- (3) Except as otherwise provided in (1) and (2) of this Section D, the Commercial Sign District regulations in Section 25-10-130 shall apply.

H. Article 3 of Chapter 25-8 of the City Code shall not apply to any Tract in the PUD. The provisions of Section 25-8-281 of the City Code shall apply in the PUD; provided, the setback from the wetlands located along Town Lake in the northwestern portion of the Property shall be 50 feet. The foregoing setback, however, shall not apply to the portion of the Hike & Bike Trail located within the Property, and shall not apply to any portion of the Property located to the south of the Hike & Bike Trail. The provisions of Section 25-8-282 of the City Code shall not apply in the PUD.

I. The following drainage-related standards shall apply:

- (1) Fill dirt to raise the area required for the construction and lateral support of all buildings, drives, sidewalks, parking, pedestrian improvements, patio areas and other improvements as depicted in the PUD Land Plan above the 100 year base flood elevation is permitted.
- (2) The existing floodplain within the PUD may be modified in connection with and at the time of approval of each SDP, and the regulations in Section 25-7-93 of the City Code shall apply to the improvements as depicted on the PUD Land Use Plan as well as to the buildings and boat docks, and the provisions of Section 25-7-94 shall not be applicable to any SDP for any portion of the Property.
- (3) The provisions of Section 25-7-31 and Section 25-7-61 of the City Code shall not apply to any SDP; provided, any request for a modification of the FEMA Floodplain that the owner may choose to submit to reflect the modifications to the existing floodplain as provided in F(1) above shall be promptly processed by the Director of the Watershed Protection and Development Review Department, or its successor department, in accordance with applicable FEMA regulations.

J. No license agreement shall be required for any landscaping, irrigation system or associated improvements that is located within the rights-of-way of Barton Springs Road or South First Street.

K. An easement for a waterline shall be granted along and immediately to the west of the right-of-way of South First Street and such waterline shall be extended under and across South First Street to the Property. Such waterline shall be of such size as determined by the owner to be necessary to provide service to the Property and shall be constructed by boring under South First Street in accordance with applicable construction standards, but otherwise without the necessity of further approvals, at the sole cost and expense of the owner.

Rousselin, Jorge

From: Kathie Tovo
Sent: Wednesday, August 16, 2006 12:47 PM
To: Rousselin, Jorge
Subject: 208 Barton Springs C814-06-0106

RECEIVED

AUG 16 2006

Attachments: fairfielddevelopment.doc

Neighborhood Planning & Zoning



fairfielddevelopment.doc (46 K..

Dear Jorge,

Attached please find a memo addressed to members of the Planning Commission and to you detailing the concerns and questions the Bouldin Creek Neighborhood Association has voiced to Fairfield Development about case C814-06-0106. I would very much appreciate this memorandum becoming part of the case file for 208 Barton Springs. And we thank you in advance for your consideration of the important issues we have raised.

We have provided a similar memo to Paul Johnston of Fairfield Development and to Fairfield's legal counsel, Michael Whellan

I should add that I will not be able to send the memo to the members of the Planning Commission as my lunch break is running short, but I will do so this evening.

As you will see in the memo, we have asked the applicant to postpone this case until 9/26 to allow for further discussion. Paul Johnston and I are scheduled to discuss this matter this afternoon.

Many thanks for your assistance.

Best,
Kathie

Kathie Tovo
President, Bouldin Creek Neighborhood Association
512/565-5361

DATE: August 15, 2006
TO: Jorge E. Rousselin, Neighborhood Planning & Zoning
Members of the Planning Commission
FROM: Bouldin Creek Neighborhood Association (BCNA)
RE: C814-06-0106 -- 208 Barton Springs

RECEIVED

AUG 16 2006

Neighborhood Planning & Zoning

What follows is a summary of the Bouldin Creek Neighborhood Association's comments, which were provided verbally to Paul Johnston of Fairfield Development and Michael Whelan in meetings on 7/13/06 and 7/26/06. As noted during those meetings, these preliminary comments and opinions are subject to change as the BCNA receives additional feedback from residents and other neighborhood groups and further information from the developers and other relevant parties.

We have asked the applicant to request a postponement of this case until September 26, 2006. It was our understanding that the applicant had a willingness to continue further discussions with the neighborhood with the goal of coming to agreement on as many of the following issues as possible. The additional time would also allow the applicant to present the proposal to the general membership of the Bouldin Creek Neighborhood Association, which next meets on September 12, 2006.

In addition to the points articulated below, we expect to see Fairfield incorporate as many of the Town Lake Corridor study recommendations as feasible. Given the sensitive nature of this tract and the already-overbuilt Hyatt site, we also expect to see Fairfield incorporate significant green-building techniques and to identify specific, significant ways to meet the city's central goals for waterfront developments: improving pedestrian access to parkland, preserving views from residential area, and creating a pedestrian friendly environment.

Waterfront Overlay

The project's proposed encroachments on the waterfront overlay run counter to the goals of the Town Lake Corridor study, the Bouldin Creek Neighborhood Plan, and other community planning efforts.

The waterfront overlay district promotes the harmonious interaction and transition between urban development and Town Lake Park and the Colorado River. On behalf of the residents who live within the boundaries of Bouldin Creek as well as the many other citizens of Austin who enjoy the park, the BCNA will not support any reductions or variances from the waterfront overlay and its protections for these public amenities.

The applicant's proposed reduction in the secondary setback; subsequent encroachment in this same secondary setback; construction of retention structures; and introduction of normally prohibited construction and impervious cover within the primary and secondary setbacks would not benefit the general public or residents of the neighborhood or support the goals of the Town Lake Corridor Study. The Land Development Code sets the following standards for variances from the waterfront overlay: (1) the proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic; and (2) the variance is the minimum required by the peculiarities of the tract. Fairfield's proposed reductions in the waterfront overlay protections do not meet the above standards, and the BCNA does not support P.U.D. rezoning as an alternative to the normal compliance process

Impervious Cover/Height

This project seeks significant increases in development rights inappropriate for waterfront development.

While the waterfront overlay imposes development restrictions, it also provides significant incentives—including increases in floor area over the base zoning in exchange for access easements and structured parking, and the ability to consider all residential spaces to be over and above the normally permitted floor area.

This parcel is primarily zoned Lake Commercial, with the exceptions of a CS parcel along Barton Springs Road and the CS parcel on which sits the existing Hyatt hotel. Lake zoning allows for 200 foot height, 50% building coverage, 50% impervious cover, and an 8:1 F.A.R. CS zoning allows for 60 foot height, 95% building coverage, 95% impervious cover, and 2:1 F.A.R.

The proposed PUD would combine the advantages of both zoning categories without limiting the project to the restrictions of either. Specifically, the project aims to construct buildings with the maximum heights and F.A.R. of Lake zoning, while adopting the more permissive building and impervious coverage of CS zoning.

The site should be required to comply with the 50% limitation on impervious cover allowed within Lake zoning. The site should also be required to comply with the City's commercial design and vertical mixed use site standards. (While the VMU ordinance will allow sites to keep existing impervious cover limits, this provision will only apply to buildings with heights 60' or under.) Lake zoning allows increased height as a balance against an increase in open space; allowing all buildings within this parcel to be as high as 200' without providing for at least 50% devoted to open space does not support the goals of the Town Lake Corridor study or the intentions of this zoning category.

Increased height on the CS1 parcel along Barton Springs Rd. from a maximum of 60' to the 200' allowed under Lake zoning represents a break with the tenets of the BCNA Neighborhood Plan as well as those of surrounding neighborhoods. We

We support the South Central Coalition of Neighborhoods' request for a comprehensive traffic study of Riverside and Barton Springs from I-35 to Mopac, and we would ask that any consideration of increased entitlements on this site be conditioned upon the results of that study.

Allowable Uses

This project seeks a significant expansion of allowable uses inappropriate for waterfront development.

As the tract is in the waterfront overlay, only Lake—not CS1— uses should be allowed, with inappropriate conditional uses prohibited as indicated below. Likewise, the proposal should adhere to the code's definition of pedestrian-oriented uses and should not seek a reclassification of "private or public health club" and "residential sales and leasing office" as pedestrian-oriented uses without sufficient explanation of how such a reclassification serves a public benefit. In addition, such a reclassification should be accompanied by a restriction of square footage allotted to these uses

Conditional uses should remain conditional, and many conditional uses, including the following, are inappropriate for this site, given its proximity to the waterfront:

group residential

automotive rentals

business or trade school
consumer repair services
outdoor entertainment
group home
telecommunication tower
local utility services
public primary and secondary educational facilities
safety services

communications services
medical offices
research services
transitional housing
hospital services
private primary and secondary ed. facilities
residential treatment

Increased Entitlements and Community Benefits

This project seeks significant increases in development rights without providing significant community benefits.

Although increases in entitlements associated with Vertical Mixed Use Buildings in the new Commercial Design standards will require developers to provide onsite affordable housing for a percentage of the residential and a fee to the city affordable housing fund for the nonresidential space above the first floor, Fairfield's project provides no such community benefits. The City of Austin has identified affordable housing as a priority, as has the BCNA and the Bouldin Creek Neighborhood Plan. The BCNA strongly believes that any increase in entitlements on this parcel should include support for affordability initiatives in this area.

Summary

PUD zoning, as defined by the Land Development Code, is intended "preserve the natural environment, encourage high quality development and innovative design and ensure adequate public facilities and services for development within a PUD." The resulting PUD development must be "superior to the development that would occur under conventional zoning." As drafted, Fairfield's proposed PUD does not meet the intent of PUD zoning, nor does it provide for a superior development when compared to the development that could occur under conventional zoning.

Comments on specific points contained within the ordinance draft dated April 20, 2006.

The BCNA strongly believes that the vague language throughout the ordinance should be made much more specific – terms defined, limits set, etc. to provide an appropriate level of protection for the surrounding communities as well as Austin parkgoers.

Open-ended construction phases and delays in providing protections required by code until construction is completed are inappropriate for such a sensitive and public tract. Examples follow.

Page 6:

- Phases like "to meet market demand," "currently contemplated," etc. create an undesirable and inappropriate level of uncertainty.
- 3: The provision of 250 spaces at any one time, especially including the vagueness of the phasing, could be inadequate. Given the general vagueness of the proposal, there is no way to predict requirements at any one time or the adequacy of the specified number.

Page 7:

•4, 5, 6: Locating temporary construction office, etc. in waterfront overlay for indeterminate period of time does not support goals of the Town Lake Corridor study, the Bouldin Creek Neighborhood Plan, and other community planning efforts.

•7: We have concerns about allowance of up to 5 years to install permanent landscaping and pedestrian-oriented uses and the same timeframe for parking garage to be without screening; we request an explanation of the rationale.

Page 8:

•1A: Only L uses should be allowed, with inappropriate conditional uses prohibited (see below).

•1C.: makes “private or public health club” and a “residential sales and leasing office” pedestrian-oriented use. As these are not pedestrian-oriented uses appropriate for lakefront developments, we would like to hear a clear rationale for this reclassification and information about the approximate square footage allocated to these two uses.

•2B.: Conditional uses should remain conditional, and many conditional uses, including those listed above, are inappropriate for this site, given its proximity to the waterfront.

Page 9

3.B. same as 2B.

We haven't enumerated the above information parcel by parcel, but the comments above should be applicable in spirit to the parcel in general.

Page 10

1A.(1) would allow for the addition of a 25' larger footprint, resulting in as much as an additional 103,500 sq. ft [25 x 230 (largest dimension on west) x 18 (stories)]. This point would also allow additional height up to at least 30' on the existing hotel building or 60'. The phrase “greater of 30 or 60” is unclear. Without clear measurements on the building, it's unclear how much additional square footage that would produce, but the BCNA strongly feels that as the Hyatt violates many of the guidelines for waterfront development, no additional expansion of this building should be allowed to occur.

1A(2) would allow for additions, etc. to “any accessory building” [emphasis ours]. This point would seem to allow construction of additional accessory buildings as it does not specify *existing* buildings. This language would seem to allow new structures to encroach on the waterfront overlay as long as they don't get closer to the lake than do the existing structures. In addition, this provision does not define or otherwise limit sufficiently alterations, modifications, etc. The BCNA cannot support such a provision.

1B. The vagueness of this section would seem to allow all kinds of structures, including detention ponds and other very undesirable construction. “Improvements, repairs, additions, and replacements” needs very specific definitions.

Page 11

2A. Exactly which of the site development regulations does this project request exemption from, and why?

2B. and 2 C. All language —“water features,” etc. —is overly vague, and all involve encroachments on the waterfront overlay that would go against the goals of the Town Lake Corridor study, the Bouldin Creek Neighborhood Plan, and other community planning efforts.

Page 12

3. Exactly which of the site development regulations are you requesting exemption from, and why?

B. Why are you requesting exemption from providing adequate structural controls?

Page 13

•4E: Exactly what is required on this site in terms of trail improvements?

Page 14

•H: This ordinance would exclude the site from many requirements (setbacks from critical water features, wetland protection, etc) and analysis (environmental assessments, drainage studies, tree survey, etc).

Q: Why are you requesting exemption from these requirements? How will Fairfield ensure that the development proceeds in an environmentally appropriate manner?

•Changing the setback from the lake from 150 to 50 feet does not support the goals of the Town Lake Corridor study, the Bouldin Creek Neighborhood Plan, and other community planning efforts.

I.(1) allows unspecified amount of fill dirt to raise the "area" —which is not defined and thus seems to apply to the entire site—"above the 100 year flood elevation." Lack of definition for the term "above" could result in even more height of an unrestricted amount.



MEMORANDUM

TO: Mayor Will Wynn and City Council Members

FROM: Jeb Boyt, Chair
Downtown Commission

DATE: September 22, 2006

RE: Hyatt Redevelopment
208 Barton Springs Road
Proposed Rezoning to PUD
Case No. C814-06-0106

At their Wednesday, August 16, 2006 meeting, the Downtown Commission received a presentation on the proposed mixed-use Hyatt Redevelopment project at 208 Barton Springs Road. After discussion, the Commission unanimously approved the following resolution:

"The Downtown Commission supports the zoning change to PUD as requested by the applicant."



Jeb Boyt, Chair
Downtown Commission

cc: Toby Hammett Futrell, City Manager
Greg Guemsey, Director, Neighborhood Planning and Zoning Department
Jorge Rousselin, Neighborhood Planning and Zoning Department

AGREEMENT BETWEEN FAIRFIELD TOWN LAKE/ZILKER LP
and BOULDIN CREEK NEIGHBORHOOD ASSOCIATION

Whereas parties have reached agreement concerning the redevelopment of 208 Barton Springs Road, and wish to express that agreement in the form of a PUD Zoning Ordinance and restrictive covenants. Therefore,

Bouldin Creek Neighborhood Association ("BCNA") and Fairfield Town Lake/Zilker LP ("Fairfield") agree as follows:

1. BCNA will not oppose the passage by Planning Commission and City Council of the attached PUD Ordinance (the "Ordinance") to rezone 208 Barton Springs. (Ex 1). BCNA and Fairfield hereby fully acknowledge and agree that BCNA is an unincorporated neighborhood association and does not and will not control the actions of individual persons within the Bouldin Creek neighborhood or members of the BCNA. Accordingly, both BCNA and Fairfield acknowledge and agree that BCNA shall have no liability and shall not be in default under this Agreement in the event a member of BCNA or a resident of the Bouldin Creek neighborhood opposes the passage by the Planning Commission or the City Council of the Ordinance. BCNA will designate an officer or committee member to state to the Planning Commission and City Council that BCNA does not oppose the Ordinance.

2. Prior to consideration by the ^{City Council} ~~Planning Commission~~ of the Ordinance, Fairfield will sign and place into escrow with Brown McCarroll, L.L.P., (Attn. Nikelle Meade) the Restrictive Covenant (the "Covenant") attached hereto as Ex 2. Upon the effective date of the PUD Ordinance rezoning 208 Barton Springs, BCNA and Brown McCarroll, L.L.P., shall be automatically authorized to file the Covenant in the Official Public Records of Travis County, Texas, without the need for further action or authorization from Fairfield.

3. Fairfield will sign the Restrictive Covenant between Fairfield and the City of Austin attached hereto as Ex 3 and will provide the executed Restrictive Covenant to the City prior to consideration by the City Council of the Ordinance.

4. Fairfield may rescind this agreement if there are substantial modifications to the PUD Ordinance or substantially different requirements imposed on the Property or Fairfield prior to the Austin City Council's approval of the Ordinance that are substantially more restrictive than those set forth in the PUD as of the Effective Date of this Agreement. BCNA may rescind this Agreement if there are substantial modifications to the PUD Ordinance or substantially different requirements imposed on the Property or Fairfield that are substantially less restrictive than those set forth in the PUD as of the Effective Date of this Agreement. Any party rescinding the Agreement must provide written notice thereof to the other party.

5. All notices required pursuant to this Agreement shall be in writing addressed to the respective parties as set forth below, unless another address shall have been designated, and shall be delivered by personal delivery, or by registered or certified mail, to the parties as follows:

If to BCNA, to:

Bouldin Creek Neighborhood Association
Attn: Association President
P.O. Box 3683
Austin, Texas 78764

with a copy to:

Brown McCarroll, L.L.P.
Attn. Nikelle S. Meade
111 Congress Avenue, Suite 1400
Austin, Texas 78701-4043
(512) 479-1147

If to Owner, to:

Glenn Jones / Sandra Hill
Fairfield Town Lake / Zilker LP
2045 N. Hwy 260, Ste 250
Grand Prairie, TX 75050
817.816.9400

6. The effective date of this Agreement (the "Effective Date") is _____, 2006.

Agreed:

Fairfield Town Lake/Zilker LP

By: FF Town Lake/Zilker LLC, a Delaware
limited liability company, General Partner

By: FF Properties, Inc., a Delaware corporation, Manager

By: _____
Name: _____
Title: _____

Bouldin Creek Neighborhood Association

By: _____
Kathryne B. Tovo, President

Bouldin Creek Neighborhood Association

By: _____
Charles Coryell Walton, Vice President